

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8:04CR460
vs.)	
)	ORDER
ADAN RUBIO,)	
)	
Defendant.)	

This matter is before the court on defendant's MOTION TO CONTINUE (#26). Trial is now set for June 21, 2005. The motion alleges some cause for a continuance of the trial date, but defendant has not filed a waiver of speedy trial as required by NECrimR 12.1(a).¹ Accordingly,

IT IS ORDERED that defendant's MOTION TO CONTINUE (#20) is held in abeyance pending compliance with NECrimR 12.1. Defendant shall file the required waiver before the close of business on **June 13, 2005**.

DATED June 6, 2005.

BY THE COURT:

s/ **F.A. Gossett**
United States Magistrate Judge

¹The rule provides:

- (a) **Content of Motion.** Unless excused by the court in individual cases, a motion to continue the trial setting of a criminal case must state facts demonstrating that the ends of justice served by a continuance outweigh the best interest of the public and the defendant in a speedy trial, (see 18 U.S.C. § 3161(h)(8)), or that for some other reason, the continuance will not violate the Speedy Trial Act. Unless excused by the court in individual cases, if the defendant is a moving party the motion shall be accompanied by the defendant's affidavit or declaration (see 28 U.S.C. § 1746) stating that defendant:
- (1) Was advised by counsel of the reasons for seeking a continuance;
 - (2) Understands that the time sought by the extension may be excluded from any calculation of time under the Speedy Trial Act, 18 U.S.C. § 3161 et seq.;
 - (3) With this understanding and knowledge, agrees to the filing of the motion; and
 - (4) Waives the right to a speedy trial.